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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/796,145

03/10/2004

Ihab M. Hekal

IHP0304

2048

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12/14/2005

LAW OFFICES OF WILLIAM H. HOLT

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EXAMINER

JOHNSON, EDWARD M

ART UNIT

PAPER NUMBER

1754

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/796,145

Applicant(s)

HEKAL, IHAB M.

Examiner

Edward M. Johnson

Art Unit

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 and 18 is/are allowed.
- 6) ☒ Claim(s) 1-14, 16 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-13, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al. US 5,241,149.

Regarding claims 1 and 13, Watanabe '149 discloses an oxygen absorber comprising iron powder main agent (see column 7, lines 34-37) and iron chloride absorber (see column 7, lines 56-58).

Watanabe fails to disclose a coated first layer.

It is considered that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a coated first layer of the iron chloride absorber in Watanabe because Watanabe discloses laminated layers of microwave-proof and packing material as preferable for safety and health (see column 7, lines 13-18), which would obviously, to one of ordinary skill, suggest the coating configuration of

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the disclosed iron chloride absorber on the disclosed iron powder main agent.

Regarding claim 2, Watanabe '149 discloses the iron powder as filler (see column 49-50).

Regarding claim 3, Watanabe '149 discloses multiple pores (see column 4, lines 25-28).

Regarding claims 4-5 and 7-8, Watanabe '149 discloses a film thickness of 5-20 microns and 1% NaCl (Example 1), which would at least suggest a powder diameter of less than 20 microns and 0.1-10% iron chloride.

Regarding claims 6 and 12, Watanabe '149 discloses ferrous and ferric chloride (see column 7, lines 56-58).

Regarding claim 9, Watanabe '149 discloses polyethylene and polypropylene (see column 5, lines 26-68 and Example 1).

Regarding claim 10, Watanabe '149 discloses 98.5% iron powder (see Example 1), which would at least suggest about 90%.

Regarding claims 11 and 16, Watanabe '149 discloses laminated layers of microwave-proof and packing material as preferable for safety and health (see column 7, lines 13-18).

Regarding claim 19, it would have been obvious to form a container wherein the absorber functions as a barrier because Watanabe discloses laminated layers of microwave-proof and

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packing material as preferable for safety and health (see column 7, lines 13-18).

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe '149 as applied to claim 13 above, and further in view of Teumac et al. US 6,465,065.

Watanabe fails to disclose extruding and pelleting.

Teumac '065 discloses pelleting and extruding (see Example 2 and column 10, lines 16-20)

It is considered that it would have been obvious to one of ordinary skill to employ the pelleting and extruding of Teumac in the method of making an oxygen absorber of Watanabe because Teumac discloses the steps in a method for making an oxygen scavenger (title) to apply to a wide variety of jar lids and caps for retaining food substances (see column 10, lines 20-22).

#### ***Allowable Subject Matter***

4. Claims 17-18 are allowed.

5. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose or suggest injecting hydrochloric acid or molten ferric chloride hexahydrate to react directly with the iron powder in the method of manufacturing an oxygen absorber of the instant claim 15.

#### ***Response to Arguments***

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6. Applicant's arguments filed 10/13/05 have been fully considered but they are not persuasive.

It is argued that in paragraph 2 of the Action, the examiner stated that... lines 13-18. This is not persuasive because Applicant does not claim a coating on an absorber as distinguished from a "packet". Rather, Applicant merely claims a layer coated on a surface of the iron powder. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a coated first layer of the iron chloride absorber in Watanabe because Watanabe discloses laminated layers of microwave-proof and packing material as preferable for safety and health (see column 7, lines 13-18). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a coating on an absorber as distinguished from a "packet") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

**Conclusion**

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7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward M. Johnson whose telephone number is 571-272-1352. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley S. Silverman can be reached on 571-272-1358. The fax phone number for the

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organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Edward M. Johnson  
Primary Examiner  
Art Unit 1754

EMJ